

material stored within the vapor emitting portion. As acknowledged by the Examiner, the references cited describe fabric and strand-based materials, not cellular foams.

A reference or combination of references must have the elements claimed in order to render a claim obvious. In the present case, the references do not have any of the elements claimed. . None of the references describe a hydrogel base and a cellular portion. None of the references describe a foamed polyolefin, and a vapor emitting portion within this cellular portion. Combination of the references does not cause these features to appear. It is respectfully requested that the Examiner reconsider and withdraw the rejection.

Unexpected Results

The Examiner has requested evidence of unexpected results. In light of the claim amendment, and lack of claimed elements in the references cited by the Examiner, the Applicant believes that the Examiner has not made out a case of obviousness. The Applicant queries the Examiner as to why this extra burden is being imposed when references cited do not have the features claimed.

Conclusion

Claims 1, 3-8, 10-14, 17-31 and 38-41 are currently pending. The applicant respectfully requests reconsideration of the amended and unamended claims now in the application and submits these claims have overcome the Examiner's rejections based on sections 112 and 103(a) and are in condition for allowance. Notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-373-6976 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

MARK H. THENO

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6976

Date 11 November

By J. M. Richards

Janal M. Kalis
Reg. No. 37,650

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 14th day of November, 2002.

Name: Anne M. Richards

Signature

